



United States
Department of
Agriculture

Food and
Nutrition
Service

Mountain
Plains
Region

1244 Speer Boulevard
Denver, CO 80204-3585

Reply to
Attn. of:

SP 94-75

SEP 08 1994

Subject:

Buy American Requirement--A Reminder

To:

STATE AGENCY DIRECTORS - Colorado ED, Iowa, Kansas, Missouri ED,
(Child Nutrition Programs) Montana OPI, Nebraska ED, North Dakota,
South Dakota, Utah, Wyoming ED

Recently our agency learned that some school food authorities (SFAs) may be using Federal funds to purchase foreign foods. The law and Federal regulations prohibit this practice, except under a specified exemption or waiver. As you will recall, the requirement that SFAs purchase domestically-produced food and food products--called the "Buy American" requirement--has two purposes: (1) to benefit our children by ensuring that high-quality foods are available in school lunch programs, and (2) to support American agriculture.

Section 3(h) of the Commodity Distribution Reform Act and WIC Amendments of 1987, and Section 250.23 of Federal Food Distribution Program regulations mandate that recipient agencies, including SFAs participating in the National School Lunch Program, purchase, whenever possible, only food products that are produced in the United States (U.S.). A "food product produced in the U.S." is defined as "an unmanufactured food product produced in the U.S. or a food product that is manufactured in the U.S." In addition to exemptions set forth in the law for specific States and territories, and unusual or ethnic food preference, the regulations identify two other situations which warrant a waiver to permit purchases of foreign products: (1) the product is not produced or manufactured in the U.S. in sufficient and reasonable available quantities of a satisfactory quality; and (2) competitive bids reveal the cost of a U.S. product is significantly higher than the foreign product. These circumstances are the only exceptions to section 3(h).

We request that your agency remind SFAs of the "Buy American" requirement and ask SFAs to (1) check their purchasing specifications to ensure adequate procurement of U.S. food products, (2) remind their vendors and distributors of the "Buy American" requirement, and (3) examine product packaging. The Nutrition Labeling and Education Act of 1990 mandates that the country of origin for both domestic and imported food products be identified on the product labels.

If you have any questions, please call our office.

Ann C. De Groat

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Regional Director
Child Nutrition Programs